

LEWIS J. SOFFER (Bar No. 83907)
MILLER STARR REGALIA
A Professional Law Corporation
1331 N. California Blvd., Fifth Floor
Post Office Box 8177
Walnut Creek, California 94596
Telephone: 925 935 9400
Facsimile: 925 933 4126
Email: Lewis.Soffer@msrlegal.com

Attorneys for Defendants
Directory Assistants, Inc., Richard Sica, and David M.
Ford

E filing

FILED

AUG 10 2012

RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Hi-Tech Termite Control of the Bay Area,
Inc., a California Corporation,

Plaintiff,

vs.

Directory Assistants, Inc.; Richard Sica, an
individual; David M. Ford, an individual;
and DOES 1-25,

Defendants.

Case No.

C12-4212

MMC

NOTICE OF REMOVAL OF CIVIL ACTION

Defendants Directory Assistants, Inc., Richard Sica and David M. Ford, submit this notice of removal of this civil action from the Superior Court of California, County of Alameda pursuant to 28 U.S.C. §§ 1332 and 28 U.S.C. §§ 1441 et seq.

GROUND FOR REMOVAL

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 based upon diversity because the plaintiff is, and was at the time of filing the attached complaint, a California corporation with its principal place of business in Hayward, California, and the Defendants are, and were when the complaint was filed, residents and/or citizens of the State of Connecticut. Defendant Directory Assistants, Inc. is a Connecticut corporation with its principal place of business in Glastonbury, Connecticut. The plaintiff in its complaint seeks to

1 recover unliquidated damages for fraud, punitive damages, attorneys' fees, and injunctive relief,
2 the sum of which exceeds \$75,000, exclusive of interest and costs.

3 2. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed
4 within thirty (30) days of Defendants' receipt of the summonses and complaint. (See Tab 1.) No
5 other process, orders or pleadings have been served in the action.

6 3. True and correct copies of a separate Notice to State Court of Removal of
7 Civil Action will be served upon the plaintiff's counsel and filed with the Clerk of the Superior
8 Court of the State of California, Alameda County, California pursuant to 28 U.S.C. § 1446(d).


9 4. In filing this notice, the Defendants do not waive any defenses available to
10 them in this action or any right it may have to arbitration.

11 5. Defendants demand a jury trial.

12 WHEREFORE, the Defendants respectfully give notice to this Court of the
13 removal of this action from the Superior Court of the State of California, Alameda County,
14 California in accordance with the foregoing legal authorities.

15 Dated: August 9, 2012

MILLER STARR REGALIA

16
17 By: 
18 LEWIS J. SOFFER
19 Attorneys for Defendants
20 Directory Assistants, Inc., Richard Sica, and
21 David M. Ford
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SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Directory Assistance, Inc., a Connecticut corporation; Richard Sika, an individual; David Ford, an individual, and DOES 1 - 25,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
Hi-Tech Termite Control of the Bay Area, Inc.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

JUL 10 2012

CLERK OF THE SUPERIOR COURT
By JENNIFER DALEY, Deputy

COPY

FAXED

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen este citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de extensión de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otras requisiciones legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos extras por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Hayward Hall of Justice/Superior Court of Alameda County
Northern District
24405 Amador Street
Hayward, CA 94544

CASE NUMBER:

HG12639671

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LEWIS BRISBOIS BISGAARD & SMITH, LLP T: 213.250.1800; F: 213.250.7800
Craig Holden, Esq.

221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012

DATE: JUL 18 2012

PAT S. SWEETEN

Clerk, by
(Secretario)

JENNIFER DALEY

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Directory Assistance, Inc., a Connecticut Corporation**
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

A True Copy Page 1 of 1

American LegalNet, Inc.
www.FormsWorkflow.com

Amos
Procedure 36-412.20, 485
www.courtinfo.ca.gov

Process Server
Christina L. Moran

Tab 1

SUMMONS (CITACION JUDICIAL)

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Directory Assistance, Inc., a Connecticut corporation; Richard Sika, an individual; David Ford, an individual, and DOES 1 - 25,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Hi-Tech Termite Control of the Bay Area, Inc.

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT
By JENNIFER DALEY, Deputy

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HG12639671

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(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LEWIS BRISBOIS BISGAARD & SMITH, LLP T: 213.250.1800; F: 213.250.7900
Craig Holden, Esq.

221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012

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(Fecha)

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<input type="checkbox"/> other (specify):	
- ☐ by personal delivery on (date):

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Attest:

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Christine L. FORBES

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SUM-100

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ENDORSED
FILED
ALAMEDA COUNTY

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By JENNIFER DALEY, Deputy

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CASE NUMBER:

HGT2639671

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Craig Holden, Esq.

221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012

DATE:

AUG 10 2012

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PAT S. SWEETEN

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Christine L. Peraz

COPY
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1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
 2 **CRAIG HOLDEN, SB# 174643**
 3 E-Mail: cholden@lbbslaw.com
 4 221 North Figueroa Street, Suite 1200
 5 Los Angeles, California 90012
 6 Telephone: 213.250.1800
 7 Facsimile: 213.250.7900

8 Attorneys for Plaintiff, Hi-Tech Termite Control
 9 of the Bay Area, Inc.

ENDORSED
 FILED
 ALAMEDA COUNTY

JUL 10 2012

CLERK OF THE SUPERIOR COURT
 By Jennifer Haley, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ALAMEDA, HAYWARD HALL OF JUSTICE

11 **HI-TECH TERMITE CONTROL OF THE**
 12 **BAY AREA, INC., a California corporation,**

13 Plaintiff,

14 vs.

15 **DIRECTORY ASSISTANTS, INC., a**
 16 **Connecticut corporation; RICHARD SICA, an**
 17 **individual; DAVID M. FORD, an individual,**
 18 **and DOES 1-25**

19 Defendants.

CASE NO. **H G 12639671**

COMPLAINT FOR:

- 1) FRAUD;
 2) NEGLIGENT MISREPRESENTATION;
 3) UNFAIR AND UNLAWFUL BUSINESS
 PRACTICES (*Cal. Bus. & Prof. Code §§*
17200 and 17500 et seq.); and
 4) DECLARATORY RELIEF

JURY TRIAL DEMANDED

20 Plaintiff, Hi-Tech Termite Control of the Bay Area, Inc., brings this complaint for fraud,
 21 negligent misrepresentations, unfair and unlawful business practices, and declaratory relief against
 22 Defendants, Directory Assistance, Inc., Richard Sica, David M. Ford, and DOES 1-25, inclusive
 23 (collectively "Defendants"), alleging and averring as follows:

24 **PARTIES**

25 1. Plaintiff, Hi-Tech Termite Control of the Bay Area, Inc., is a California corporation
 26 with its principal place of business at 21063 Cabot Boulevard, Suite 6, Hayward, California (zip
 27 code cut off.

28 2. Defendant, Directory Assistance, Inc., is a Connecticut corporation with its

4823-4281-9856.1

COMPLAINT

LEWIS
 BRISBOIS
 BISGAARD
 & SMITH LLP
 ATTORNEYS AT LAW

COPY
 FAXED

1 principal place of business at 500 Winding Brook Drive, Glastonbury, Connecticut.

2 3. Defendant, Richard Sica, is a senior manager with Directory Assistance, Inc., and a
3 resident of the state of Connecticut.

4 4. Defendant, David M. Ford, is President of Directory Assistance, Inc., and a resident
5 of the state of Connecticut.

6 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
7 under fictitious names DOES 1 through 25, inclusive. Plaintiff will seek leave of the Court to
8 amend this complaint to allege such names and capacities when they are ascertained. Plaintiff is
9 informed and believes, and based thereon alleges, that each of the fictitiously named DOE
10 defendants is responsible in some manner for the wrongful conduct alleged herein. Plaintiff
11 further alleges that each defendant acted in concert with, as agent or representative for, or at the
12 request of or on behalf of another. Each charging allegation and cause of action contained herein
13 is, therefore, hereby alleged against each fictitiously named DOE defendant, and DOES 1 through
14 25, inclusive, along with the named defendants are collectively referred to herein as "Defendants."

15 6. At all times mentioned herein, Defendants and each of them were the agents,
16 representatives, employees, co-conspirators, successors and/or assigns each of the other, and were
17 acting within the course and scope of their authority as such agents, representatives, employees,
18 co-conspirators, successors and/or assigns, and each Defendant ratified and approved the acts of
19 its, his or her agent, and/or that of the remaining Defendants and each of them.

20 JURISDICTION AND VENUE

21 7. The amount in controversy herein exceeds the jurisdictional minimum of this state
22 Court. This Court has specific personal jurisdiction over the Defendants, as they have purposely
23 committed within the state of California the acts from which these claims arise and have
24 committed tortious acts outside California, knowing and intending that such acts would cause
25 injury to Plaintiff within the state of California. Plaintiff is informed and believes, and based
26 thereon alleges, that the Court also has general personal jurisdiction over Defendants, as they
27 conduct continuous, systematic, and routine business within the state of California.

28 8. Venue is proper in this county as the acts, events, and transactions which form the

1 basis of this complaint took place within this county, including within the district of this Court.

2 ALLEGATIONS COMMON TO ALL CLAIMS

3 9. Plaintiff is a successful termite control business that uses advanced technology and
4 environmentally-friendly, state approved chemicals to combat termite infestations in Northern
5 California Bay Area homes, businesses and industrial properties. Plaintiff advertises in, among
6 other places, phone books such as the Yellow Pages, and has developed and had a successful
7 advertising campaign in the phone book that has been cost-effective for many years.

8 10. Directory Assistance, Inc., purports to be in the business of helping businesses
9 reduce their phone book advertising costs and obtain more value from their phone book
10 advertisements. In November 2011, Directory Assistants, Inc.'s senior manager, Defendant
11 Richard Sica, initiated a "cold [phone] call" to Plaintiff's office to solicit Plaintiff into doing
12 business with Directory Assistance, Inc. In November 2011, Defendant Richard Sica, on behalf of
13 Directory Assistance, Inc., flew from Connecticut to Hayward, California, to meet with the owner
14 and representatives of Plaintiff and solicit Plaintiff into doing business with Directory Assistance,
15 Inc., concerning local phone book advertisements that were already published and in circulation
16 and that were to be published and circulated in the future in the Bay Area of Northern California.

17 11. During his November 2011 visit with Plaintiff in Hayward, California, Mr. Sica, on
18 behalf of Directory Assistance, Inc., with their full knowledge, participation and ratification, made
19 numerous false, misleading and fraudulent representations concerning the nature of the services
20 Directory Assistance, Inc., could provide for Plaintiff, including without limitation the following:

- 21 a) Directory Assistance, Inc., had insider knowledge of the lowest rates that would
22 be charged for regular and preferred customers of phone book companies,
23 including inside relationships with the phone book employees that would
24 negotiate such rates, and that Directory Assistants, Inc. would negotiate and
25 obtain the lowest available rates on existing and future identical ads for
26 Plaintiff's advertising in the local Bay Area phone books;
27 b) Directory Assistants, Inc. has proprietary technology including registered
28 intellectual property rights that were exclusive to them, including

1 methodologies that were unique and not available elsewhere, that would be
 2 used to help Plaintiff achieve savings on its phone book advertisements;
 3 c) Directory Assistants, Inc. would achieve a cost savings between 40-80% off of
 4 Plaintiff's existing phone book advertisements in the Bay Area without
 5 downsizing, modifying or altering the size, nature or character of the ads, but
 6 by utilizing their inside information with the phone book companies, their
 7 inside relationships and proprietary methodologies; defendants would negotiate
 8 new and better rates for existing and identical future advertisements of Plaintiff
 9 in Bay Area phone books between 40 to 80%; defendants would not charge
 10 Plaintiff for any of its services unless the net total advertising expenditures for
 11 Plaintiff's phone book advertisements that defendants worked on and
 12 negotiated, and that resulted in a total net savings to Plaintiff; and defendants
 13 would then only charge a percentage of the savings achieved on the net total
 14 advertising expenditures for Plaintiff's phone book advertisements that
 15 defendants worked on and negotiated, and that resulted in a total net savings to
 16 Plaintiff;

17 12. Defendants' representations above were false, and they knew they were false when
 18 made, and they were made with the intention to deceive and induce Plaintiff into doing business
 19 with Directory Assistance, Inc. Plaintiff is informed and believed and based thereon alleges that
 20 Directory Assistance, Inc.'s business model is based upon the foregoing misrepresentations.

21 13. Contrary to the above misrepresentations, Directory Assistance, Inc., did not
 22 perform and never intended to perform the promises they represented they would perform above.

23 14. In furtherance of their fraud, Defendant Sica, on behalf of Directory Assistance,
 24 Inc., misled plaintiff into signing four different versions of Defendants' boilerplate consulting
 25 contract – which is substantively and procedurally unconscionable – and mislead Plaintiff into
 26 believing that the final version he signed was accepted by Defendants. Specifically, Defendants'
 27 form consulting contract allowed for hand-written modifications and Plaintiff signed Defendants'
 28 consulting contract on or about November 15, 2011 with hand-written modifications thereto,

1 effectively making it a contractual counter-offer that required Defendants to convey their signed
2 acceptance of same (hereinafter "First Counter-Offer"). Defendants immediately rejected
3 Plaintiff's First Counter-Offer.

4 15. Immediately after executing the First Counter-Offer, on or about November 15,
5 2011, Plaintiff made and conveyed to Defendants further hand-written modifications to
6 Defendants' form consulting contract, effectively making it a contractual counter-offer that
7 replaced the First Counter-Offer, and required Defendants to convey their signed acceptance of
8 same (hereinafter "Second Counter-Offer"). Defendants rejected Plaintiff's Second Counter-
9 Offer, and suggested to Plaintiff what modifications would be acceptable.

10 16. Immediately after executing the Second Counter-Offer, on or about November 15,
11 2011, Plaintiff made and conveyed to Defendants further hand-written modifications to
12 Defendants' form consulting contract, effectively making it another contractual counter-offer that
13 replaced the Second Counter-Offer, and required Defendants to convey their signed acceptance of
14 same (hereinafter "Third Counter-Offer"). Defendants immediately rejected Plaintiff's Third
15 Counter-Offer, and suggested to Plaintiff what modifications would be acceptable.

16 17. Immediately after executing the Third Counter-Offer, on or about November 15,
17 2011, Plaintiff made and conveyed to Defendants further hand-written modifications to
18 Defendants' form consulting contract, effectively making it another contractual counter-offer that
19 replaced the Third Counter-Offer, and required Defendants to convey their signed acceptance of
20 same (hereinafter "Fourth Counter-Offer"). On or about November 15, 2011, Defendants
21 represented to Plaintiff that they would accept his Fourth Counter-Offer, but never conveyed their
22 signed written acceptance, and never returned a signed copy of the Fourth Counter-Offer to
23 Plaintiff.

24 18. Unbeknownst to Plaintiff, Defendants purported to execute the retracted Third
25 Counter-Offer of Plaintiff, on or about January 9, 2012, but never conveyed their execution of this
26 null, void and retracted Third Counter-Offer to Plaintiff and instead continued to misrepresent to
27 Plaintiff that they had accepted his Fourth Counter-Offer. In or around May 2012, after Plaintiff
28 confronted Defendants concerning their misrepresentations and wrongful conduct, Defendants sent

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1 Plaintiff for the first time via certified/registered mail, an executed copy of the already-retracted
 2 Third Counter-Offer with a signature from Defendants' representative dated January 9, 2012.
 3 Since that time, Defendants have attempted to enforce the retracted, null and void Third-Counter
 4 Offer by proffering false and fraudulent invoices for services never rendered by Directory
 5 Assistants, Inc.

6 19. The Fourth Counter-Offer, which replaced, retracted and supplanted all prior
 7 counter-offers, was never accepted and no contract was ever formed between the parties – yet
 8 Defendants continued to misrepresent to Plaintiff that they accepted the Fourth Counter-Offer.
 9 The difference between the Third and Fourth Counter-Offer are material, and pertain to Plaintiff's
 10 indicated pre-disposed changes to the form consulting contract, namely, that Plaintiff wants to
 11 maintain his use of full page advertisements in his phone book advertising. Defendants mislead
 12 Plaintiff into believing that this material modification in the Fourth Counter-Offer had been
 13 accepted, but in truth, it never was, and Defendants rejected the terms of the Fourth Counter-Offer,
 14 and instead fraudulently attempted to, and continue to try to enforce the retracted, null and void
 15 Third Counter-Offer several months after it had been retracted by the Fourth Counter-Offer.

16 20. Defendants representations above were false when made and they knew they were
 17 false when made, and they were intended to deceive plaintiff.

18 21. Plaintiff is informed and believes, and based thereon alleges, that Defendant David
 19 Ford, with knowledge of the foregoing misrepresentations and fraudulent conduct, ratified and
 20 approved of the above conduct as President of Directory Assistants, Inc., and has continued to
 21 attempt to enforce the retracted, null and void Third-Counter Offer in order to extract monies from
 22 Plaintiff. In furtherance of the fraud, Plaintiff is informed and believes, and based thereon alleges,
 23 that Defendant Ford has attempted to enforce the retracted, null and void Third-Counter Offer by
 24 proffering false and fraudulent invoices for services never rendered by Directory Assistants, Inc.,
 25 and for savings Directory Assistants, Inc. claims it obtained but that were never achieved.

26 22. Defendants have engaged and continue to be engaged in a pattern of behavior
 27 designed and intended to defraud and interfere with Plaintiff's business and to injure Plaintiff.
 28 Plaintiff was and continues to be damaged as a result of Defendants unlawful conduct.

FIRST CAUSE OF ACTION

(FRAUD AGAINST ALL DEFENDANTS AND DOES)

23 Hereunder plaintiff realleges and incorporates herein by reference each and every allegation set forth in paragraphs 1 through 22.

24. By virtue of their conduct alleged above, Defendants made misrepresentations of material fact which were in fact false when made.

25. When Defendants made these misrepresentations (including omissions of material fact), Defendants knew they were false and/or had no reasonable ground for believing their representations were true.

26. Defendants have ratified these fraudulent practices in order to obtain money from Plaintiff based upon the retracted, null and void Third Counter-Offer, and have billed Plaintiff with invoices that reflect services that were never rendered, and savings never achieved.

27. Defendants engaged in the foregoing conduct and made the foregoing misrepresentations and omissions of material fact with the intent to defraud plaintiff.

28. Plaintiff acted in justifiable reliance upon the truth of the misrepresentations, and was prevented from discovering concealed facts related to defendants misrepresentations.

29. Defendants omitted, concealed and suppressed material facts with the intent to defraud plaintiff. Plaintiff was unaware of the concealed and suppressed material facts.

30. As a direct and proximate result of the foregoing, Plaintiff has sustained damages in an amount to be determined at trial, together with interest, costs and attorney's fees.

31. In committing the aforementioned acts and omissions, Defendants are guilty of fraud, oppression and/or malice, for which Defendants, including each of them, should be punished with the imposition of punitive damages.

32. Defendants' misrepresentations and attempts to enforce the retracted, null and void Third Counter-Offer have caused irreparable and incalculable injury to plaintiff and unless enjoined, could cause further irreparable injury, whereby Plaintiff has no adequate remedy at law.

SECOND CAUSE OF ACTION

(NEGLIGENT MISREPRESENTATION AGAINST ALL DEFENDANTS AND DOES)

33. Plaintiff realleges and incorporates herein by reference each and every allegation set forth in Paragraphs 1 through 32, above.

34. The misrepresentations (including omissions of material fact) made by defendants as set forth herein were made by defendants without reasonable grounds for defendants to believe the misrepresentations were true.

35. Plaintiff acted in justifiable reliance on the misrepresentations and omissions of material fact of defendants. As a direct and proximate cause of the foregoing, plaintiff has sustained damages in an amount to be determined at trial, together with interest, costs and attorney's fees.

36. Defendants' misrepresentations and attempts to enforce the retracted, null and void Third Counter-Offer have caused irreparable and incalculable injury to plaintiff and unless enjoined, could cause further irreparable injury, whereby Plaintiff has no adequate remedy at law.

THIRD CAUSE OF ACTION

(UNFAIR AND UNLAWFUL BUSINESS PRACTICES AND VIOLATION OF CAL. BUS. AND PROF. CODE SECTIONS 17200 AND 17500, ET SEQ. - AGAINST ALL DEFENDANTS AND DOES)

37. Plaintiff incorporates by reference all the allegations contained in Paragraphs 1 through 36, above.

38. The acts, practices and conduct of defendants, as alleged above, constitute methods of unlawful, fraudulent and unfair business practices as defined by *California Business and Professions Code* section 17200 and 17500, et seq.

39. The acts, practices and conduct of defendants, as alleged above, in this complaint were and are likely to deceive or mislead the general public, including businesses within California, and therefore constitute unfair business practices within the meaning of California Business and Professions Code §§ 17200 and 17500, et seq.

40. Defendants' acts of unlawful and unfair business practices have caused harm to

1 plaintiff and plaintiff is informed and believes and based thereon alleges that such conduct has
 2 caused harm to the general public and/or business community within California. Defendants' acts
 3 have caused plaintiff to suffer injury in fact and loss of money in an amount to be proven at trial.

4 41. Defendants' unlawful and unfair business practices have also caused irreparable
 5 and incalculable injury to plaintiff and unless enjoying, could cause further irreparable injury,
 6 whereby plaintiff has no adequate remedy at law.

7 42. Plaintiff is entitled to relief whereby defendant should be ordered to cease and
 8 desist from engaging in its unlawful, deceptive and fraudulent business practices above.

9 43. Plaintiff is further entitled to an injunction preventing defendants' continued acts of
 10 unfair business practices as provided in California Business and Professions Code section 17203.

11 FOURTH CAUSE OF ACTION

12 (DECLARATORY RELIEF - AGAINST DIRECTORY ASSISTANCE, INC.)

13 44. Plaintiff incorporates by reference all the allegations contained in paragraphs 1
 14 through 43, above.

15 45. An actual controversy has arisen and now exists between Plaintiff and Directory
 16 Assistance, Inc., concerning their respective rights and duties in that Plaintiff contends there is no
 17 contract that has ever formed via an offer and acceptance or a counter offer and acceptance
 18 whereas defendants dispute these contentions and contends that a contract exists between Plaintiff
 19 and Directory Assistants, Inc., despite its misrepresentations and misconduct alleged above.

20 46. Plaintiff desires a judicial determination concerning the rights and duties of the
 21 parties and a declaration as to the non-existence of any contract between Plaintiff and Directory
 22 Assistants, Inc.

23 47. A judicial declaration is necessary and appropriate at this time under the
 24 circumstances in order that Plaintiff may ascertain the rights and duties of the parties, since
 25 Defendants have and are attempting to enforce the retracted, null and void Third Counter-Offer.

26 48. Plaintiff has and will continue to suffer damages as a result of Defendants'
 27 fraudulent attempt to enforce the retracted, null and void Third Counter-Offer.

28 49. Plaintiff seeks termination and rescission of any and all purported and putative

1 contracts between itself and Directory Assistance, Inc., based upon the aforementioned fraud and
 2 the retracted and never accepted counter-offers described above. Plaintiff has not received any
 3 benefit or consideration from defendants under the non-existent contracts or business relationship
 4 but to the extent any such consideration was received Plaintiff has and/or will restore same.

5 WHEREFORE, Plaintiff prays for judgment against each defendant, jointly and severally:

6 1. For an award of all general, special, compensatory and actual damages sustained by
 7 Plaintiff by reason of Defendants' wrongful acts complained of herein.

8 2. For an award of punitive and exemplary damages on account of defendants'
 9 fraudulent, oppressive, and malicious conduct;

10 3. For a declaration that no contract was ever formed and no contract exists between
 11 Plaintiff and Directory Assistance, Inc., and for termination and recession of any putative contract;

12 4. For entry of preliminary and permanent injunctive relief restraining and enjoining
 13 Defendants, and all of their agents, representatives, employees, successors and assigns and all
 14 persons in active concert or participation with any of them, from: (a) engaging in any of the
 15 misrepresentations mentioned above, or unfair, unlawful and deceptive business practices
 16 mentioned above; and (b) enforcing or attempting to enforce any the non-existent, retracted, null
 17 and void non-executed contracts between Plaintiff and Directory Assistants, Inc. or any putative
 18 contract that Directory Assistants, Inc. contend is or should be enforced against Plaintiff.

19 5. For an award to Plaintiff of the costs and reasonable attorney's fees incurred;

20 6. For an award of other and further relief as the court shall deem just and proper.

21
 22 DATED: July 18, 2012

Respectfully submitted,
 CRAIG HOLDEN
 LEWIS BRISBOIS BISGAARD & SMITH LLP

23
 24
 25 By: 

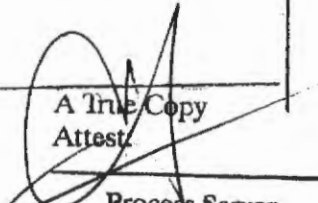
26 Craig Holden
 27 Attorneys for Plaintiff, Hi-Tech Termite Control
 of the Bay Area, Inc.

28
 LEWIS
 BRISBOIS
 BISGAARD
 & SMITH LLP
 ATTORNEYS AT LAW

4823-4281-9856.1

10
 COMPLAINT

A True Copy
 Attest


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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury in all issues triable in this action.

DATED: July 18, 2012

Respectfully submitted,

CRAIG HOLDEN
LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 

Craig Holden
Attorneys for Plaintiff, Hi-Tech Termite Control
of the Bay Area, Inc.

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LEWIS BRISBOIS BISGAARD & SMITH, LLP 221 North Figueroa Street Suite 1200 Los Angeles, CA 90012 TELEPHONE NO.: 213.250.1800 FAX NO. 213.250.7900		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY JUL 18 2012 CLERK OF THE SUPERIOR COURT By Jennifer Pineda, Deputy
ATTORNEY FOR (Name): Plaintiff, Hi-Tech Termite Control of the Bay Area, Inc. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: 24405 Amador Street CITY AND ZIP CODE: Hayward, CA 94544 BRANCH NAME: Hayward Hall of Justice		
CASE NAME: Hi-Tech Termite Control et al. v. Directory Assistants et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: HG12639671 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case: Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <input type="checkbox"/> Other PIPDWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPDWD (23) Non-PIPDWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (18) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPDWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 4
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 17, 2012

Craig Holden

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
Cal. Standards of Judicial Administration, Std. 3.10
www.courtinfo.ca.gov

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CHRISTINE L. PERAN

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collections (e.g., money owed, open book accounts) (08)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Product Liability (not asbestos or toxic/environmental) (24)	Collection Case—Seller Plaintiff	Enforcement of Judgment
Medical Malpractice (45)	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Medical Malpractice—Physicians & Surgeons	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Auto Subrogation	Confession of Judgment (non-domestic relations)
Other PIPD/W (23)	Other Coverage	Slayer Statute Judgment
Premises Liability (e.g., slip and fall)	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Intentional Bodily Injury/PIPD/W (e.g., assault, vandalism)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Other Contract Dispute	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Real Property	Miscellaneous Civil Complaint
Other PIPD/W	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Non-PIP/W (Other) Tort	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Business Tort/Unfair Business Practice (07)	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Defamation (e.g., slander, libel) (13)	Mortgage Foreclosure	Mechanics Lien
Fraud (16)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Intellectual Property (19)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Professional Negligence (25)	Unlawful Detainer	Miscellaneous Civil Petition
Legal Malpractice	Commercial (31)	Partnership and Corporate Governance (21)
Other Professional Malpractice (not medical or legal)	Residential (32)	Other Petition (not specified above) (43)
Other Non-PIP/W (35)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Civil Harassment
Employment	Judicial Review	Workplace Violence
Wrongful Termination (36) Other Employment (15)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
	Petition Re: Arbitration Award (11)	Election Contest
	Writ of Mandate (02)	Petition for Name Change
	Writ—Administrative Mandamus	Petition for Relief From Late Claim
	Writ—Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

Short Title: Hi-Tech Termite Control of the Bay Area, Inc. v Directory Assistants, et al.

Case Number:

CIVIL CASE COVER SHEET ADDENDUM

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA☒ Hayward Hall of Justice (447)☐ Oakland, Rene C. Davidson Alameda County Courthouse (446)☐ Pleasanton, Gale-Schenone Hall of Justice (448)

Auto Tort	Auto Tort (22)	<input type="checkbox"/> 34 Auto tort (G)	Is this an uninsured motorist case? <input type="checkbox"/> yes <input type="checkbox"/> no
Other PI / PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	<input type="checkbox"/> 75 Asbestos (D) <input type="checkbox"/> 89 Product liability (not asbestos or toxic tort/environmental) (G) <input type="checkbox"/> 97 Medical malpractice (G) <input type="checkbox"/> 33 Other PI/PD/WD tort (G)	
Non - PI / PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	<input type="checkbox"/> 79 Bus tort / unfair bus. practice (G) <input type="checkbox"/> 80 Civil rights (G) <input type="checkbox"/> 84 Defamation (G) <input checked="" type="checkbox"/> 24 Fraud (G) <input type="checkbox"/> 87 Intellectual property (G) <input type="checkbox"/> 59 Professional negligence - non-medical (G) <input type="checkbox"/> 03 Other non-PI/PD/WD tort (G)	
Employment	Wrongful termination (36) Other employment (15)	<input type="checkbox"/> 38 Wrongful termination (G) <input type="checkbox"/> 85 Other employment (G) <input type="checkbox"/> 53 Labor comm award confirmation <input type="checkbox"/> 54 Notice of appeal - L.C.A.	
Contract	Breach contract / Wmnty (06) Collections (09) Insurance coverage (18) Other contract (37)	<input type="checkbox"/> 04 Breach contract / Wmnty (G) <input type="checkbox"/> 81 Collections (G) <input type="checkbox"/> 86 Ins. coverage - non-complex (G) <input type="checkbox"/> 90 Other contract (G)	
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	<input type="checkbox"/> 18 Eminent domain / Inv Cdm (G) <input type="checkbox"/> 17 Wrongful eviction (G) <input type="checkbox"/> 36 Other real property (G)	
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	<input type="checkbox"/> 94 Unlawful Detainer - commercial <input type="checkbox"/> 47 Unlawful Detainer - residential <input type="checkbox"/> 21 Unlawful Detainer - drugs	Is the deft. in possession of the property? <input type="checkbox"/> Yes <input type="checkbox"/> No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	<input type="checkbox"/> 41 Asset forfeiture <input type="checkbox"/> 82 Pet. re: arbitration award <input type="checkbox"/> 49 Writ of mandate <input type="checkbox"/> 64 Other judicial review	Is this a CEQA action (Publ. Res. Code section 21000 et seq) <input type="checkbox"/> Yes <input type="checkbox"/> No
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	<input type="checkbox"/> 77 Antitrust / Trade regulation <input type="checkbox"/> 82 Construction defect <input type="checkbox"/> 78 Claims involving mass tort <input type="checkbox"/> 91 Securities litigation <input type="checkbox"/> 93 Toxic tort / Environmental <input type="checkbox"/> 95 Ins covrg from complex case type	
Enforcement of Judgment	Enforcement of judgment (20)	<input type="checkbox"/> 19 Enforcement of judgment <input type="checkbox"/> 05 Confession of judgment	
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	<input type="checkbox"/> 08 RICO (G) <input type="checkbox"/> 08 Partnership / Corp. governance (G) <input type="checkbox"/> 08 All other complaints (G)	
Misc. Civil Petition	Other petition (43)	<input type="checkbox"/> 06 Change of name <input type="checkbox"/> 69 Other petition	

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LEWIS BRISBOIS BISGAARD &
SMITH LLP
Attn: HOLDEN, CRAIG
221 NORTH FIGUEROA ST #1200
LOS ANGELES, CA 90012

Superior Court of California, County of Alameda

HI-TECH TERMITE CONTROL OF TH
Plaintiff/Petitioner(s)
VS.
DIRECTORY ASSISTANCE, INC.,
Defendant/Respondent(s)
(Abbreviated Title)

No. HG12639671

**NOTICE OF CASE MANAGEMENT
CONFERENCE AND ORDER**
Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 12/03/2012 Time: 09:00 AM	Department: 520 Location: Hayward Hall of Justice 3rd Floor 24405 Amador Street, Hayward CA 94544 Internet: http://www.alameda.courts.ca.gov	Judge: David Hunter Clerk: Lindnell Williams Clerk telephone: (510) 690-2729 E-mail: Dept.520@alameda.courts.ca.gov Fax: (510) 267-1531
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ORDERS

1. You must:
 - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. Give notice of this conference to any party not included in this notice and file proof of service;
 - c. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
 - d. File and serve a completed Case Management Statement (use of Judicial Council Form CM-110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)*
2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.
3. You are further ordered to appear in person† (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

* Case Management Statements may be filed by E-delivery, by emailing them to the following address: EDelivery@alameda.courts.ca.gov. No fee is charged for this service. For further information, go to Direct Calendar Departments at <http://apps.alameda.courts.ca.gov/domainweb>.

† Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 07/23/2012.

By

Debra Fustado

Deputy Clerk

A True Copy
Attest

Process Server
CHRISTINE L. FORAN

Superior Court of California, County of Alameda



Notice of Assignment of Judge for All Purposes

Case Number: HG12639671

Case Title: HI-TECH TERMITE CONTROL OF TH VS DIRECTORY ASSISTANCE, INC.,

Date of Filing: 07/18/2012

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:

Judge:	David Hunter
Department:	520
Address:	Hayward Hall of Justice 24405 Amador Street Hayward CA 94544
Phone Number:	(510) 690-2729
Fax Number:	(510) 267-1531
Email Address:	Dept.520@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure section 170.6 must be exercised within the time period provided by law. (See Code Civ. Proc. §§ 170.6, subd. (a)(2) and 1013.)

NOTICE OF NONAVAILABILITY OF COURT REPORTERS: Effective June 4, 2012, the court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). Parties may arrange and pay for the attendance of a certified shorthand reporter. In limited jurisdiction cases, parties may request electronic recording.

Amended Local Rule 3.95 states: "Except as otherwise required by law, in general civil case and probate departments, the services of an official court reporter are not normally available. For civil trials, each party must serve and file a statement before the trial date indicating whether the party requests the presence of an official court reporter."

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

General Procedures

Following assignment of a civil case to a specific department, all pleadings must be filed at the court facility where that department is located. The René C. Davidson Courthouse is the filing location for departments situated in the Alameda County Administration Building and the United States Post Office (see Local Rule, rule 1.9(f) effective as of 10/11/2011). All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE David Hunter
DEPARTMENT 520

All parties are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at:
<http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processes (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days". Plaintiff received that form in the ADR information package at the time the complaint was filed. The court's Web site also contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

If all parties agree to change a scheduled court date, the parties must first send a fax letter to Department 520 outlining the requested schedule change and then contact the Courtroom Clerk to schedule a telephone conference with the Court.

Please submit a courtesy copy of all filed documents directly to Department 520.

Schedule for Department 520

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions.

- Trials generally are held: Mondays, Tuesdays and Thursdays from 10:00 a.m. to 4:30 p.m. and Wednesdays from 10:00 a.m. to 4:00 p.m.
- Case Management Conferences are held: Mondays through Thursdays at 9:00 a.m.
- Law and Motion matters are heard: Fridays at 9:30 a.m.
- Settlement Conferences are heard: Fridays at 1:30 p.m.
- Ex Parte matters are heard: Mondays and Wednesdays at 9:30 a.m.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations
Phone: (510) 690-2729

- Ex Parte Matters
Phone: (510) 690-2729

Tentative Rulings

The court may issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: www.alameda.courts.ca.gov/domainweb, Calendar Information for Dept. 520
- Phone: 1-866-223-2244

Dated: 07/20/2012



Focalis

Presiding Judge,
Superior Court of California, County of Alameda

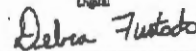
CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 07/23/2012

By

Digital



Deputy Clerk

A True Copy
Attest:

Process Server
KIMBERLY L. FORMAN

PROOF OF SERVICE

Hi-Tech Termite Control of the Bay Area, Inc. v. Directory Assistants, Inc., et al.
Alameda County Superior Court, Case No. HG12639671

I, Karen Irias, declare:

I am a resident of the United States of America and over the age of eighteen years, and not a party to the within action; my business address is 1331 N. California Blvd., Fifth Floor, Post Office Box 8177, Walnut Creek, CA 94596. On August 9, 2012, I served the within documents:

NOTICE OF REMOVAL OF CIVIL ACTION

Via E-Mail: by transmitting the document(s) listed above via email to the email address(es) set forth below by 5:00 p.m.(PST).



Via Mail: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below.



Via Electronic: by uploading the document(s) listed above and e-filing said document(s) directly with the _____ Court's website at _____ before 5:00 p.m. (PST).



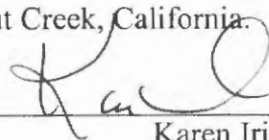
Hand-Delivery Via Courier: by causing the document(s) listed above to be hand-delivered to the following person(s) at the address(es) set forth below.

Craig Holden, Esq.
Lewis Brisbois Bisgaard & Smith
LLP
221 North Figueroa St., Suite 1200
Los Angeles, CA 90012
T: 213.250.1800
F: 213.250.7900
Email: cholden@lbbslaw.com

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 9, 2012, at Walnut Creek, California.



Karen Irias